

AMENDED IN SENATE AUGUST 22, 2008
AMENDED IN SENATE AUGUST 14, 2008
AMENDED IN SENATE AUGUST 4, 2008
AMENDED IN SENATE JUNE 19, 2008
AMENDED IN ASSEMBLY MAY 19, 2008
AMENDED IN ASSEMBLY FEBRUARY 14, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 1759

Introduced by Assembly Members ~~DeVore and Spitzer~~ *Member
DeVore*

(~~Coauthors: Assembly Members Adams, Anderson, Benoit, Cook,
Fuller, Gaines, Garrick, Horton, Huff, Jeffries, Keene, La Malfa,
Maze, Plescia, Smyth, Strickland, Villines, and Walters~~)
(~~Coauthors: Senators Aaenstad, Cox, Hollingsworth, and Wiggins~~)

January 7, 2008

An act to amend Sections 218, 17207, and 24347.5 of, and to add Sections 170.5, 195.128, 195.129, 195.130, 195.134, 195.135, 195.136, 195.137, 195.138, and 195.139 to, the Revenue and Taxation Code, relating to disaster relief, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately. *Section 23396.1 of the Business and Professions Code, relating to alcoholic beverages.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1759, as amended, DeVore. ~~Disaster relief.~~ *Alcoholic beverages:
lodging establishments.*

The Alcoholic Beverage Control Act authorizes motels and hotels having an on-sale general license for restricted service lodging establishments, as described, to sell or furnish alcoholic beverages for consumption on the premises by specified means.

This bill would extend that authorization to allow those motels and hotels having an on-sale general license for restricted service lodging establishments to sell or furnish beer and wine for consumption on the premises, where the beer or wine is sold in a food sale area, as defined, and consumed in specified areas of the motel or hotel.

The Alcoholic Beverage Control Act provides that a violation of any of its provisions for which another penalty or punishment is not specifically provided is a misdemeanor. This bill would expand existing crimes by imposing additional duties on a licensee under the act, thus, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~(1) Existing law authorizes a county board of supervisors to provide by ordinance for the reassessment of property that is damaged or destroyed, without fault on the part of the assessee, by a major misfortune or calamity, upon the application of the assessee or upon the action of the county assessor with the board's approval. With respect to certain counties that have adopted reassessment ordinances and have been declared by the Governor to be in a state of emergency as a result of certain events, existing law provides for state allocations of the estimated amounts of the reductions in property tax revenues resulting in certain fiscal years from reassessments under those ordinances. Existing law also continuously appropriates, without regard to fiscal years, moneys in the Special Fund for Economic Uncertainties for purposes of funding these state allocations.~~

~~This bill would provide for similar state allocations with respect to property tax revenue reductions resulting from a reassessment for damages incurred within the Counties of Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa Barbara, and Ventura, which were declared by the Governor to be in a state of emergency due to the wildfires that occurred during the 2007 calendar year, and for damages incurred within the Counties of Butte, Kern, Mariposa,~~

~~Mendocino, Monterey, Plumas, Santa Clara, Santa Cruz, Shasta, and Trinity, which were declared by the Governor to be in a state of emergency due to the wildfires that occurred in May or June 2008.~~

~~This bill would also provide for similar state allocations with respect to property tax revenue reductions resulting from a reassessment for damages incurred within the County of Santa Barbara, which was declared by the Governor to be in a state of emergency due to the wildfires that occurred in July 2008.~~

~~By requiring moneys continuously appropriated from the Special Fund for Economic Uncertainties to be allocated for the new purpose of reimbursing these counties for these property tax revenue reductions, this bill would make an appropriation.~~

~~(2) Existing property tax law provides, pursuant to a specified provision of the California Constitution, for a homeowners' property tax exemption in the amount of \$7,000 of the full value of a "dwelling," as defined.~~

~~This bill would provide that any dwelling that qualified for the exemption prior to the commencement dates, as listed in the Governor's disaster proclamations during the 2007 calendar year, that was damaged or destroyed by the wildfires in the Counties of Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa Barbara, and Ventura, and that has not changed ownership since the commencement dates, as listed in the Governor's disaster proclamations of 2007, may not be denied the exemption solely on the basis that the dwelling was temporarily damaged or destroyed or was being reconstructed by the owner, or was temporarily uninhabited as a result of restricted access to the property due to wildfires.~~

~~This bill would also provide that any dwelling that qualified for the exemption prior to the commencement dates, as listed in the Governor's proclamations of May, June, or July 2008, that was damaged or destroyed by the wildfires in the Counties of Butte, Kern, Mariposa, Mendocino, Monterey, Plumas, Santa Clara, Santa Cruz, Shasta, and Trinity, and that has not changed ownership since the commencement dates, as listed in the Governor's proclamations of May, June, or July 2008, may not be denied the exemption solely on the basis that the dwelling was temporarily damaged or destroyed or was being reconstructed by the owner, or was temporarily uninhabited as a result of restricted access to the property due to wildfires.~~

~~This bill would also provide that any dwelling that qualified for the exemption prior to July 1, 2008, that was damaged or destroyed by the~~

wildfires in the County of Santa Barbara, as declared by the Governor in July 2008, and that has not changed ownership since July 1, 2008, may not be denied the exemption solely on the basis that the dwelling was temporarily damaged or destroyed or was being reconstructed by the owner, or was temporarily uninhabited as a result of restricted access to the property due to wildfires.

~~The California Constitution requires the Legislature, in each fiscal year, to reimburse local governments for the revenue losses incurred by those governments in that fiscal year as a result of the homeowners' property tax exemption.~~

~~This bill would state the intent of the Legislature to make this required reimbursement in the annual Budget Act. By requiring local tax officials to implement new exemption criteria, this bill would impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

~~(3) The Personal Income Tax Law and the Corporation Tax Law provide for the carryover to specified taxable years of specified losses sustained as a result of certain disasters occurring in California in an area determined by the President of the United States to warrant specified federal assistance, or proclaimed by the Governor to be in a state of emergency.~~

~~This bill would extend these provisions to losses sustained in the Counties of Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa Barbara, and Ventura as a result of the wildfires, proclaimed by the Governor to be in a state of emergency, that occurred during the 2007 calendar year, to losses sustained in the Counties of Butte, Kern, Mariposa, Mendocino, Monterey, Plumas, Santa Clara, Santa Cruz, Shasta, and Trinity, as a result of the wildfires, proclaimed by the Governor to be in a state of emergency, that occurred in May or June 2008, and to losses sustained in the County of Santa Barbara as a result of the wildfires that occurred in July 2008. This bill would authorize a taxpayer to make an election to claim a deduction for those losses on the tax return for the preceding year.~~

~~(4) Existing law requires the auditor of a county which was the subject of the Governor's proclamation of a state of emergency to certify to the Director of Finance an estimate of the total reduction in property tax revenues resulting from the reassessment by the county assessor of those properties that are eligible as a result of disasters, and requires the director to verify the county auditor's estimate and certify that amount to the Controller for allocation to the county.~~

~~This bill would require, for any fire disaster occurring after January 1, 2010, the Department of Finance not to certify a county auditor's estimate of the total reduction in property tax resulting from the reassessment by the county assessor of eligible properties as a result of those disasters unless the county demonstrates compliance with specified requirements at the time the fire disaster occurred.~~

~~(5) This bill would declare that it is to take effect immediately as an urgency statute.~~

Vote: $\frac{2}{3}$ -majority. Appropriation: ~~yes-no~~. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 *SECTION 1. Section 23396.1 of the Business and Professions*
- 2 *Code is amended to read:*
- 3 23396.1. (a) An on-sale general license for restricted service
- 4 lodging establishments authorizes those hotels and motels described
- 5 in subdivision ~~(b)~~ (c) to sell or furnish alcoholic beverages for
- 6 consumption on the premises by means of:
- 7 (1) Controlled access alcoholic beverage cabinets located in
- 8 guestrooms, subject to the conditions specified in Section 23355.2.
- 9 (2) Furnishing alcoholic beverages only to their transient guests
- 10 and their invitees under circumstances where the uniform cost of
- 11 the alcoholic beverages is included in the price of the overnight
- 12 transient occupancy accommodation, whether or not separately
- 13 stated.
- 14 (b) (1) *An on-sale general license for restricted service lodging*
- 15 *establishments authorizes those hotels and motels described in*
- 16 *subdivision (c) to sell or furnish beer and wine for consumption*
- 17 *on the premises, as defined in paragraph (2), and as designated*
- 18 *to and approved by the department as part of the licensed premises.*
- 19 *Beer and wine in sealed containers may be sold only to the*

1 *licensee's transient guests and their guests in a food sale area*
2 *located within the lodging establishment itself.*

3 (2) *For purposes of this subdivision, the following definitions*
4 *apply:*

5 (A) *"Food sale area" means a food facility, within the meaning*
6 *of Section 113875 of the Health and Safety Code, that routinely*
7 *offers for sale, throughout the area's normal hours of operation*
8 *each day to all of the lodging establishment's transient guests and*
9 *their invitees, primarily items like prepackaged sandwiches, salads,*
10 *snacks, candy, dairy products, water, soft drinks, and other*
11 *nonalcoholic beverages in bottles or cans, and similar food items.*
12 *The "food sale area" may also offer for sale various items such*
13 *as health and beauty aids, cosmetics, nonprescription drugs, film,*
14 *batteries, and similar sundries.*

15 (B) *"Premises" means guestrooms, the general lobby area of*
16 *the lodging establishment, rooms designated for private meetings*
17 *and conferences, and outside of the lodging establishment in the*
18 *general pool, picnicking, recreation, and similar gathering areas*
19 *of the lodging establishment.*

20 ~~(b)~~

21 (c) *For purposes of this division, a "restricted service lodging*
22 *establishment" is a hotel or motel, within the meaning of*
23 *subdivision (f) of Section 23355.2, which meets all of the following*
24 *conditions:*

25 (1) *It does not operate a bona fide eating place or other public*
26 *premise.*

27 (2) *It has at least 10 guestroom accommodations.*

28 (3) *It does not derive more than 5 percent of its total gross*
29 *annual revenues from sales of alcoholic beverages.*

30 ~~(e)~~

31 (d) *A premises licensed pursuant to this section shall not be*
32 *authorized to sell or furnish alcoholic beverages to the general*
33 *public, shall not be entitled to a caterer's permit pursuant to Section*
34 *23399, and shall not be entitled to exercise any off-sale privileges*
35 *pursuant to Section 23401. The provisions of Article 2*
36 *(commencing with Section 23815) of Chapter 5 do not apply to*
37 *the issuance of on-sale general licenses for restricted service*
38 *lodging establishments. An on-sale general restricted service*
39 *lodging establishment license may be transferred to another person*
40 *but not to another location. A licensee specified in this section*

1 shall purchase no alcoholic beverages for sale in this state other
2 than from a wholesaler or winegrower licensee.

3 ~~(d)~~

4 (e) An applicant for an original on-sale general license for
5 restricted service lodging establishments shall, at the time of filing
6 the application for the license, accompany the application with a
7 fee of six thousand dollars (\$6,000). The annual renewal fee for a
8 license issued pursuant to this section shall be the same as the
9 applicable annual renewal fee for an on-sale general license.

10 *SEC. 2. No reimbursement is required by this act pursuant to*
11 *Section 6 of Article XIII B of the California Constitution because*
12 *the only costs that may be incurred by a local agency or school*
13 *district will be incurred because this act creates a new crime or*
14 *infraction, eliminates a crime or infraction, or changes the penalty*
15 *for a crime or infraction, within the meaning of Section 17556 of*
16 *the Government Code, or changes the definition of a crime within*
17 *the meaning of Section 6 of Article XIII B of the California*
18 *Constitution.*

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21 **All matter omitted in this version of the bill**
22 **appears in the bill as amended in Senate,**
23 **August 14, 2008 (JR11)**
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